

**IN THE UNITED STATES DISTRICT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

MICHELLE ROSE
Plaintiff, Pro Se

CASE NO. 1:20-CV-00132

V.

JUDGE: JAMES S. GWIN

UNIVERSITY HOSPITALS
PHYSICIAN SERVICES, INC
Defendants

NOTICE OF APPEAL

**Requesting an appeal to review the
Corrected information from Judge
Gwin's Opinion and Order.**

You're Honor Judge Gwin,

I am requesting an appeal on your judgement for granting the defendants motion for summary judgement. After carefully reading through and getting a better understand of some of the legal terms used, I am hoping that you may reconsider my appeal after reviewing the simple version of the facts.

There has been some miscommunication on dates and time lines when incidents accord. I can understand your judgement if that were the case but the information has been crossed with dates and times. There are many emails that I have requested copies of and have been denied on multiple occasions, including my request for discovery. The defendants only provided me with one item out of my requests for discovery during my motion.

I was also reprimanded by the defendants counsel for "contacting previous and or current UHPS employees". I was reaching out to obtain the information needed to support my case and also to ask for an affidavit to support my case as well. I did not know this was not allowed and therefore the reason I have nothing from the others involved in my case to support my case. I ceased all communication from that point forward not knowing the laws.

I can have testimony, sworn affidavits and or depositions from each person named in my claims if I had the opportunity to communicate and or contact them.

Therefore I am asking you to please see the breakdown of the actual events in the real order that they took place. I am also asking you to consider hearing from one or more persons that I have named as witnesses who will provide the confirmation that this all took place and is correct information.

The problems started in winter / spring of 2016 when Dr. Kent Knauer approached me and asked me what was this “Bad Debt” about on his monthly financials. I contacted my supervisor Cynthia Clark and she did not know what this was on the financials for and suggested I contact the finance department about that.

I discussed this with the financial manager and was told that the central billing office decided that they would not send out any bills to patients and or insurance companies that were a total of \$10.00 or less as it was not worth the time, calls, letters, printed bills and or the postage stamp for mailing. So they were told to write it off as bad debt.

This did not sit well with Dr. Kent Knauer and he was not contracted to use the central billing office as they did not even have one back when he joined UH. Dr. Knauer was a “risk doctor” which means UH does not support him in anyway. He is responsible to pay for all his employees, their insurance, all supplies and equipment as well as rent the space he uses at UH. So he was angry that they would just allow this write off to bad debt without his knowledge and fired them.

I was then instructed to find an in house billing person to work in the practice. Not only would it bring in more revenue, it would also be cheaper as he was paying 10% of his net revenue to the central billing office. So having a full time in house billing person saved him a lot of money and we would collect every dollar owed to him.

The problem with this decision was that I as the manager, had to take over all the charge entry, insurance claims and denials and follow up in order to keep up the revenue for the practice. This took a lot of my time and away from my manager responsibilities so I would work a lot of hours. I was a salaried manager and I loved my job and did not mind. I was able to hire a fulltime person Cassandra Windham, and tried to teach her as much as I possibly could and keep up with my other responsibilities. Now, I was self-taught on the system just by diving in and figuring it out. It was a very user friendly system and they had support to call if needed.

Then in the spring / summer of 2017, UHPS changed my role as practice manager to practice lead. They claim this was due to the new Ohio Law on salaried employees. When we looked into the law, it did not apply to me at all as my salary was twice the amount required by the law to remain a salaried practice manager.

UH refused to allow me to keep my salaried position and I felt it was not fair for me to work any overtime hours because Dr. Knauer paid 100% of my salary and was very generous. So I was falling behind a great deal with work trying to keep up with billing for the practice, collections, insurance follow up, trying to train my billing person in the office Cassandra and maintain my daily manager responsibilities and this started to way very heavy on me.

I begged and pleaded for training and or help in anyway and was constantly denied. When UH final produced our new job descriptions for Practice Lead and or the lucky ones that remained salaried Practice Managers, I think it is very clear that I was being singled out as I was fully quailed for the Practice Manager Salaried position according to the new job description. When I brought this to HR and Dr. Drew Hertz attention, I was told by HR that I must have at least 10 employees that report to me in order to keep the salaried manager position but yet nowhere in the job description does it state that. Clearly I was being singled out.

Then an email from Dr. Drew Hertz stating that I must have a practice with at least two or more physicians in order to keep my salaried manager position. Also not mentioned anywhere in the job description set forth by HR. So I was clearly being singled out.

I started contacting my supervisor Cynthia Clark about Cassandra getting the proper training she would need. I wanted her to go through the training just as if she were going to be working for the central billing office. She was doing the same but for an in house practice and not the central department. This is when the retaliation started and we were denied the proper training for Cassandra and was told there is no formal training for the Non CBO practices.

In the fall/winter of 2016, Cynthia Clark and Brian Boardman met with both Dr. Kent Knauer and I to review the previous 2015 financial. The goal of this meeting was to determine what month and or months it would be most beneficial for Allergy / Immunology to take training and switch to the new upcoming Sorian program that we will be using for scheduling and billing. In this meeting we all agreed that the best time for our practice with minimal patient care interruption, would be January/February of 2018.

That was considered to be what they called Wave 8 of this transformation. This was the slow period for Allergy / Immunology and would not interfere with patient care. Business went on as usual and we (managers) would get email updates and discuss it in our monthly meetings on where we were with the roll out and training. I would meet with my entire staff to inform them of any changes and or updates. I also asked them to not request any time off during the period of December 2017 through February 2018, other than the normal holiday days off. I explained that this would be the time that we were to be in training and go live with the new program.

In the spring of 2017, I started receiving emails from the Sorian team stating that the program and training has been rolling out faster and better then prior thoughts. Therefore, the new schedule was sent out moving Allergy / Immunology from Wave 8 to Wave 7. This was now a problem for the Allergy / Immunology practice because request for surgeries, FMLA leaves and or vacations were already approved and this is now a problem that no one discussed with us or asked prior to making this change.

I was scheduled for a long overdue reconstructive knee surgery and scheduled it for November 27, 2017 as it was not going to interfere with the roll out and one of our MA's scheduled her young daughter's surgery and would be out for two weeks at the least. We had just hired someone new and was trying to train her as an MA as well. The stress was overwhelming me and I made a comment via email to Cynthia Clark stating that "know I can understand why people commit suicide". That evening the State Highway Patrol showed up at my hours checking on me. When I came back in the office that Monday, I was met by HR and Cynthia Clark placing me on an administrative leave and forcing me to undergo a psychiatric evaluation prior to returning to work.

After I returned to work, I started having many medical issues with my Fibromyalgia, my Immune Deficiency, chronic fatigue, severe swelling of my hips, knee, ankles and feet. I went to see my PCP and he sent me to physical therapy twice a week and wanted me to follow up with a pain management doctor. I went to see the pain management doctor and he highly suggested that I apply for intermittent FMLA and filled out all the paperwork for me. That was approved on 8/16/2017 and was for 7/19/17 through 7/18/18

Then on August 28, 2017 I received devastating news that my father was diagnosed with pancreatic cancer. All this was happening during the time that UH had pushed us forward with the training and go live date in the new program and we were now scheduled to go live on 11/1/2017. My mother does not drive so I had no choice but to apply for my second intermittent FMLA leave in order to take my father to his chemo treatments weekly.

My intermittent FMLA for my father was approved for 9/21/17 through 7/18/18 BUT the letter is dated for November 13, 2017 and my father died on November 4, 2017. So getting this letter was not a happy moment.

During the month of September, I tried my best to keep up with work, my medical issues, my father's medical issues and did the best I could. This is when all the harassing emails started coming at me. My supervisor Cynthia Clark would contact me via email and or calls stating that "HR is asking me why you have no overtime on your time card for the last pay period"

I would get these emails constantly reminding me that I need to remember to clock in and out, which can be very hard to remember when you have always had a salaried position that did not require that for many years. Also when I would walk into the office at 8:30, 9, 9:30 and sometimes even 10am as I would be flexing off time that I worked over the previous night so my doctor does not have to pay me overtime. I would be immediately stopped by problems taking place at that moment and or something that happened earlier that morning. There would be many days that I did not actually turn on my computer until I was done taking care of issues, problems, calls that I needed to address.

Our way of clocking in and out was by a time clock on our laptop computers. And therefore, I would have many days with missed punches in that morning but I would punch out in the evening. I was being micromanaged almost daily over this until finally HR Valerie Jaggie sent me the email which is also singling me out about my time card issues and now a secretary from the main campus was to monitor my time cards. When I questioned/challenged her on this decision, and the email exchanges dated September 27, 2017 through October 17, 2017.

On Tuesday October 17, 2017 after receiving the email from Valerie Jaggie regarding my time card, I could no longer take the harassment and the singling me out over other managers. On Wednesday October 18, 2017 at lunch, I clocked out and went downtown to speak to the EEOC in regards to the emails, the harassing me about my time card and why I did not have any overtime. I was given instructions at the EEOC on how to handle / approach the situation. I did notify Valerie Jaggie, Cynthia Clark and Brian Boardman, that I paid a visit to the EEOC and what I was instructed to say / do. (I have requested these emails but was denied).

The follow day Thursday October 19th 2017, I was met by Valerie Jaggie and Brian Boardman in my office with my "Final Warning" corrective action. I have never had a corrective action in my 14 years of service but they decided to immediately place me on the final warning, next step termination.

I left out of town that weekend after work. I received a call from the VA on Saturday October 20, 2017 stating that I needed to get to the hospital because my father has crashed and was in ICU. I was 6 hours away from home. So I drove in the middle of the night getting to the VA at 3am on Sunday October 21, 2017. After learning what took place and what condition my father was in, I called my supervisor Cynthia Clark, and told her the situation that has taken place and current approved intermittent FMLA for my father, will now need to be changed to a full continuous leave FMLA.

I called my office on Monday morning explaining all this to my staff and my doctor as well. I was at the VA day and night and never once left there from Sunday October 21st 2017 until he died on November 4th 2017. During this entire time; I had conference calls with Cynthia Clark, Brian Boardman and Dr. Drew Hertz all at the same time while sitting in the ICU at the VA explaining to them why I now need a continuous leave and what had happened. My boyfriend was a witness to this call as he was there as well.

I was told on this call, they cannot push back the start date as they have been saying all along and promised that I would have the coverage I need for my office to transform smoothly. After about a week in the VA stay, I started getting calls and emails from my staff stating that they have no help in the office and because they refused to train Cassandra for billing; all the billing tickets are laying piled up on my office floor for the last week and a half.

Without the charges entered, the doctor does not make revenue and cannot pay his staff. I called my boyfriend and asked him to go to my office and get my laptop and have him a list of things that I would need to work. I emailed Cynthia Clark and told her that this was taking place and she was fully aware that I was on a continuous FMLA at the VA with my dying father in ICU and then Hospice and yet, it was okay because the work was getting done. She also emailed me asking if I could and would be willing to take care of the payroll for the staff as well.

So as you see, I was working while on a fulltime FMLA continuous leave from Monday October 22, 2017 until after my father's funeral and affairs were taken care. I was physically back in the office for the first time on November 15th and or 16th, I do not recall at this time that actual date.

I then went out on my approved FMLA for my knee surgery on November 27th 2017 and returned to work on December 11th 2017. I worked Monday through Thursday and on Thursday evening December 14th 2017, my entire knee, leg, foot and ankle swelled up and turned deep red in color. I called my surgeon on Friday December 15th 2017 and he wanted to see me that day. I called the office and Cynthia Clark and explained I would

update them after my visit. He placed me back off work until January 15, 2017. He stated I pushed myself by returning back to the office too soon. The problem was I still had no help and I was the only one doing the billing. I went to my office on that Friday December 15th 2017 and spoke to my doctor and my staff, faxed my FMLA / STD paperwork in and sent Cynthia Clark a copy. I packed up my work things and laptop and went home.

I still had to enter the charges that had been piled in my office from my continuous FMLA leave with my father at the VA as these had not been caught up yet. I would have Mark drop them off on his way to work every morning. Well FINALLY, Cynthia Clark found someone to start entering the billing tickets for me and that I should not have Mark pick up anymore as the staff was instructed to scan and email them to Danielle Curry.

Mark had interaction when he went to my office to drop off some completed charge tickets and Cindy was there, so she was well aware that I was working while on a continuous leave and had no problem with it and even asked me to do work like payroll. And then on December 19, 2017 is when the texts started coming from Cynthia Clark telling me not to reach out to the staff and do any work. At first, I did continue to contact the staff, call and email until I found how serious she was because Dr. Knauer started warning me and texting me. He warned me not to come into the office even for the appointment I had scheduled with him. So on Tuesday, December 19, 2017, I then took off my managers hat and called the main number as a patient to cancel my appointment for that Wednesday December 20, 2017 that I had schedule a long time ago.

The following morning, Wednesday December 20, 2017, I received a call on my cell phone and it was from my actual office phone number. So I answered it and it was Valerie Jaggie and Cynthia Clark calling from my personal office, on speaker phone to terminate my employment. Now my office sits between the front desk, the front door where patients move in and out and the allergy shot room where the nurse is on the phone or giving patients an allergy shot.

My office was the old shot patient waiting room and did not have a door on it. So my office was lacking privacy. They had every opportunity to go to the private conference room that is down the hall from our office on the first floor and make that call privately in there. And they could have gone back to their cars and called from their cell phones. The way they terminated me against their own policy was done fully intentional.

I had reminded them that I just underwent reconstructive knee surgery and have not been medically released. That is when I received the email from Valerie Jaggie offering to keep my insurance active until the end of February 2018, if I would be willing to sign a release of liability for UH. Then I received a call from both Valerie Jaggie and Cynthia Clark

offering the same deal via phone call. I also had a letter mailed to my house on letter head after I declined the offer stating that they would keep my insurance active until the end of January 2017.

I never had another doctor visit, medications and or physical therapy from December 29 2017 forward. You see my insurance at Health Design Plus is owned and operated by UH. Anytime a doctor sees a patient with HDP insurance, they were not reimbursed. So it not cost them anything at all to keep me on as my surgeon told them that I needed at least 7 more weeks of physical therapy and I never had another session at all.

When you have just had a surgery and your doctor is telling you what care and follow up you need until you are cleared from that surgeon, how is that considered a gift? It is a medical obligation because now that I went without the care, I had a third knee surgery with the same surgeon in May of 2020. When I told him the situation that took place after my surgery in 2017, he stated that very well could be why I am undergoing another surgery due to the lack of medical attention and physical therapy that he ordered. My boyfriend was present during this visit as well.

And lastly, I did not file for Worker's Comp your honor, I applied for unemployment and it was denied. They sent me the copy of the denial and why it was denied. On the docket was Cynthia Clark answering all the questions that the unemployment office was asking about my termination. They denied my application. Valerie Jaggie was not involved with the Unemployment case at all.

I then requested a hearing with the Unemployment office. They sent me the instructions for the hearing which was also sent to Cynthia Clark. I was instructed that I had to supply either by USPS or my email, a copy of my argument and my exhibits to the board, and to Cynthia Clark as well. I did as I was instructed and I received an email from Cynthia asking me not to send anymore emails.

I explained to her that I was instructed by the Unemployment hearing board to provide you with a copy for the hearing that is scheduled. Cynthia Clark never replied to my email after that nor did Cynthia Clark bother to even join the hearing on the date and time it was scheduled to defend UH. The Unemployment board overturn the decision and granted my unemployment with back pay. They also gave Cynthia Clark all the information on how she / UH can still appeal that decision but I am assuming she did not follow through because I received my full benefits. I am left to believe that after they had seen all the emails, text messages, recorded phone calls that I had pertaining to the Unemployment hearing, they decided not to fight it.

Cassandra Williams was ultimately never properly trained and was terminated, I found out by reaching out to Cynthia Clark via text message this past March 2020 that she is no longer employed with UH. And I received in the mail a letter informing me that Dr. Kent Knauer was resigning from his position April 30, 2020. I still spoke to Dr. Knauer, he was still my Immunologist and I continued to see him as a patient. He told me he was retiring on his birthday November 2020. Then he sent me an email stating that according to his UH contract, he will now retire January 2021. For him to decide to leave on such short notice and without any physician to take over as we had discussed, I knew it had to be something serious.

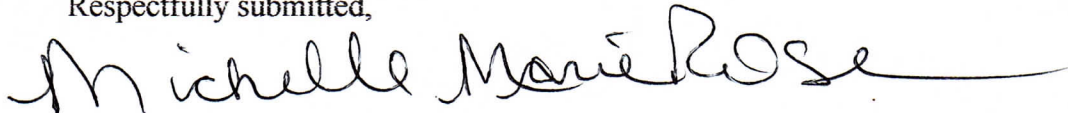
Well the lack of training, coverage and the new system that could not and will never bill correctly for a specialty practice and them refusing to train his staff, the reason for the leave was for a much larger reason.

So I am asking you to please consider the timeline, the documents and the fact that I did have multiple FMLA's at one time and then one turned into a continuous leave and I was basically forced to work while I watch my father lay dying at the VA for almost 4 weeks all while on a continuous FMLA and then fired for that reason a month later.

The only way I can prove this, is calling them as a witness, being able to do a deposition with them and or calling them to the stand to testify is they only way that I have to prove my case. I can prove my case and disprove theirs if given the opportunity. Valerie Jaggie was a very small portion of this case and really had no clue about my three different approved FMLA's and she had no idea of the work I was asked to do while on fulltime FMLA leave at the VA. All she was going by was the paperwork that I originally filed for my father and internitten FMLA. She was not made aware that it was continuous from October 21, 2017 until November 15th or 16th 2007 when I first actually walked into the office again.

I was wondering why Valerie Jaggie was the only one giving a deposition in this case and why Cynthia Clark was not called on to give a deposition as she was my direct supervisor and had more information that Valerie had not idea about. I could only assume that my request to Cynthia Clark to move me to a fulltime FMLA leave for my father was never done knowing that she would ask me to continue to do things. I can understand that is why Valerie Jaggie knew nothing at all about this fulltime FMLA leave. I can also speculate that is why Cynthia Clark is no longer employed there as well? I do not know but what I do know if they have Cynthia Clark's information and contact, so why was she not called on to do a deposition as she is the one that called me, terminated me and signed my letter and documents as my direct supervisor?

Respectfully submitted,

A handwritten signature in black ink that reads "Michelle Marie Rose". The signature is fluid and cursive, with a long horizontal line extending from the end of the name.

Michelle Marie Rose, Pro Se Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on this day 7th day of January 2021, the foregoing was filed through the Court's CM/ECF electronic filing system. A copy of this filing will be send via email to the Defendant's Attorneys.

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